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Frederick W. Gibb, III McGinn & Gibb, PLLC Suite 304 2568-A Riva Road Annapolis, MD 21401			AHMED, AFFAF	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/699,173	<b>Applicant(s)</b> JAIN ET AL.
	<b>Examiner</b> AFAF AHMED	<b>Art Unit</b> 3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 March 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 43,53,54,56-60,66 and 78-84 is/are pending in the application.

4a) Of the above claim(s) 1-42, 44-52, 62, 64-65, and 69-77 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 43,53,54,56-60,66 and 78-84 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-544)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Status of Claims***

1. This action is in reply to the amendment filed on 03/12/2009.
2. Claims 43, 53-54, 56-60, 66, 78-84 have been amended.
3. Claims 1-42, 44-52, 62, 64-65, and 69-77 have been canceled.
4. Claims 43, 53-54, 56-60, 66, 78-84 are currently pending and have been examined.

### ***Response to Applicant's Amendment***

5. Applicant's amendment and arguments filed on 03/12/2009 have been fully considered and discussed in the next section. Applicant is reminded that claims must be given their broadest reasonable interpretation.
6. Applicant amended claims 43-67, therefore claim rejection 35 USC § 101 has been withdrawn.
7. Applicant has canceled claims 44-52, 62 and 64-65, therefore claim rejection 35 USC § 112 second paragraph has been withdrawn.
8. With regard to claims 43, 68 and 84:

#### **A. the 35 USC § 103 (a) rejection over Sundaresan and Moffett**

##### **1. The Sundaresan Disclosure:**

- Applicant argues that Sundaresan's information about shoppers is only used by the merchants to facilitate co-browsing by shoppers with similar interests and not for targeting of individual shoppers for marketing promotions in the present invention.

Examiner respectfully disagrees. The claims recite: *determining by the computer targeted information, to be targeted to said targeted individual shoppers, based on said shopper-group interaction measure; and sending by the computer server, said targeted information to targeted individual shoppers.* Examiner notes, it has been held that Although claims are interpreted in light of the specification, limitations from the specification are not read into the claims. In re Van Geuns, 26 USPQ2d 1057 (CA FC 1993)).

- Applicant argues that Sundaresan does not teach or suggest determining a "shopper affinity index being determined by at least one of :a number of times an individual shopper has voted with other members of the shopping group; a number of times said individual shopper's proposal has been voted for by other members of the shopping group; a number of times said individual shopper has been invited by, or issued an invitation to, other members of a shopping group; and a number of shopping groups to which said individual shopper belongs.

Examiner respectfully disagrees. The claims recite: *wherein said shopper-group interaction measure comprises an index, comprising at least one of: a shopper affinity index; a leadership index; a conformity index and assertive index.* Applicant is reminded that it has been held that language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation (MPEP §2106 II C). To this extent, Examiner has addressed the *leadership index* (see the rejection below).

- Applicant argues that Sundaresan does not disclose, teach or suggest at least the feature of a merchant collecting individual shopper data and group shopper data to determine shopper-group interaction profiles; and from determination of individual versus group shopping behaviors, the merchant can then target individual shoppers for marketing promotion.

Examiner respectfully disagrees. The claims recite: *determining by the computer targeted information, to be targeted to said targeted individual shoppers, based on said shopper-group interaction measure; and sending by the computer server, said targeted information to targeted individual shoppers.* Examiner notes, it has been held that Although claims are interpreted in light of the specification, limitations from the specification are not read into the claims In re Van Geuns, 26 USPQ2d 1057 (CA FC 1993)).

- Applicant argues the Sundaresan does not disclose, teach or suggest determining "a group compatibility and agreement index based on a time series analysis of shopping group, other activities on a site of said merchant prior to joining the shopping group by said individual shoppers, and behaviors of individual shoppers after joining the shopping group".

Examiner respectfully disagrees. Claim 58 recites: *wherein said shopper-group interaction measure comprises an index, comprising at least one of: a group compatibility and agreement index, a maturity index, a group youthfulness index and harmony index.* Examiner has addressed a group of youthfulness index (see the rejection below).

- Applicant argues that Moffett does not disclose, teach or suggest the shopper-group interaction measures of the present invention, which are determined by the merchant i.e, a shopper affinity index, a leadership index, a conformity index and an assertiveness index. Applicant argues that Moffett does not disclose, teach or suggest at least features of a merchant collecting individual shopper data and group shopper data to determine shopper-group interaction profiles, which are used to target individual shoppers by the merchant. Applicant also argues that Moffett does not disclose, teach or suggest "determining a group compatibility and agreement index based on a time series analysis of shopping group, other activities on a site of said merchant prior to joining the shopping group by said individual shoppers, and behaviors of individual shoppers after joining the shopping group".

Examiner respectfully disagrees. The Moffett's reference is used to address the limitations of: *said group shopping comprising multiple individuals making at least one group purchase* (see at least the abstract and paragraphs 19 and 43); *a shopper paying for the shopper's individual share of the shopping group's purchase* (see at least the abstract and paragraphs 7 and 17).

**B. The 35 USC § 103 (a) rejection over Sundaresan and Moffett and Bieganski**

**1. The Bieganski Disclosure:**

- Applicant argues that the subject matter of currently amended, independent claims 43,58,68 and 84 which recite similar subject matter contained in canceled claims 45-48, 50-51, 70-74 and 76-77 are not disclosed, taught or suggested by Sundaresan, Moffet and Bieganski, either individually or in combination.

Examiner respectfully disagrees. The claims recite:

- *wherein said shopper-group interaction measure comprises an index, comprising at least one of:*
- *a shopper affinity index, said shopper affinity index being determined by at least one of: a number of times an individual shopper has voted with other members of the shopping group; a number of times said individual shopper's proposal has been voted for by other members of the shopping group; a number of times said individual shopper has been invited by, or issued an invitation to, other members of a shopping group; and a number of shopping groups to which said individual shopper belongs;*
- *a leadership index, said leadership index being determined from records of purchase proposals of an individual shopper and a number of times other shoppers in the shopping group have followed said purchase proposals;*
- *a conformity index, said conformity index being determined from a voting record of an individual shopper regarding a purchase proposal with reference to agreeing with a majority of the shopping group; and*
- *an assertiveness index, said assertiveness index being determined from a voting record of an individual shopper regarding a purchase proposal with reference to disagreeing with a majority of the shopping group.*

Because the above claims recites "optional language" that is language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation (MPEP §2106 II C). To this extent, Examiner has addressed the *leadership index* (see the rejection below). As a convenience to the Applicant, Examiner provided Bieganski's reference (column 6, lines 37-55) to show that there are many different methods to form affinity groups. Therefore the combination of Sundaresan, Moffett and Bieganski teaches claims 43, 58,68 and 84.

**C. The 35 USC § 103 (a) rejection over Sundaresan and Moffett and Bieganski**

**1. The Eldering Disclosure:**

- Applicant argues that no where Eldering disclose, teach or suggest the present invention's features of a merchant collecting individual shopper data and group shopper data to determine shopper- group interaction measures, which are used to target individual shoppers by the merchant. That is, from a determination of individual versus group shopping behaviors, the merchant can then target individual shoppers for marketing promotions. Eldering does not disclose, teach or suggest shopper affinity index being determined by at least one of: *a number of times an individual shopper has voted with other members of the shopping group; a number of times said individual shopper's proposal has been voted for by other members of the shopping group; a number of times said individual shopper has been invited by, or issued an invitation to, other members of a shopping group; and a number of shopping groups to which said individual shopper belongs.* Eldering does not disclose, teach or suggest at least the features of a merchant collecting individual shopper data and group shopper data to determine shopper-group interaction profiles, which are used to target individual shoppers by the merchant. That is, from a determination of individual versus group shopping behaviors, the merchant can then target individual shoppers for marketing promotions. Eldering does not disclose, teach or suggest determining "a group compatibility and agreement index based on a time series analysis of shopping history of said individual shoppers of the shopping group, other activities on a site of said merchant prior to joining the shopping group by said individual shoppers, and behaviors of individual shoppers after joining the shopping group", as recited in currently amended, independent claim 58. Examiner respectfully disagrees. The Eldering's reference is used to address the limitations of: *wherein said group shopping measure is determined by a group of youthfulness; wherein individual shopping behavior measure comprises information on demographics, income, purchase history, and preferences* (see at least column 2, lines 32-47 and column 6, lines 55-59 and 3A with the associated text); Therefore the combination of Sundaresan, Moffet and Eldering teaches claims 43,58,68 and 84.

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
10. Claims 43, 68 and 84 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claims 43, 68 and 84 recite the limitation of: *wherein said shopper-group interaction measure is determined based on any of a shopper affinity index, leadership index, conformity index and an assertiveness index.* It is unclear what Applicant is referring to by *shopper-group interaction measure based on any of a shopper affinity index, leadership index, conformity index and an assertiveness index.* The shopper-group measure is already determined in the determination step from individual shopping data and group shopping data. Appropriate correction and/or clarification is required.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims 43, 68 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Sundareasan US Pat No: 7,219,072 B1 in view of Moffett, Jr. US Pub No: 2002/0103746 A1.

**Claims 43, 58, 68, 69, 78 and 84: 43, 56, 58, 68, 82 and 84**

Sundareasan discloses:

- *a computerized shopping system* (see at least column 1, lines 46-67 and column3, lines 34-51);
- *collecting data regarding choices of individual shoppers when shopping individually;*
- *collecting group shopping data regarding the choices of individual shoppers when participating in group shopping, sending said targeted information to one or more targeted shoppers;*

See at least column 2, lines 1-27, column 3, lines 18-27;

- *determining an individual shopping behavior measure from the individual shopper data ;*

See at least column 2, lines (16-27 and 55-64) and column 5, lines 1-8;

- *determining targeted information on a basis of said shopper-group interaction measure;*

See at least column 2, lines 55-67, column 3, lines 18-30 and column 5, lines 18-51;

- *determining a shopper-group interaction measure from individual shopper data and group shopper data, said group shopper data comprising a record of previous interaction between individuals within a shopping group of individual performing said group interaction* (see at least column 2, lines 1-27, column 5, lines 1-51);

Sundaresan does not specifically disclose:

- *wherein said shopper-group interaction measure is determined based on leadership index that is determined from records of shopper recommendations of said number of times other shoppers have followed such a recommendation;*

However, Sundaersan in at least column 3, lines 10-17 discloses a method that facilities in bringing the user's shopping experience closer to traditional shopping experience. The method provides user with ability to chat with other shoppers browsing similar items in a conventional e-store and the ability to exchange suggestions and recommendations regarding the available selection of products. Sundaresan also in at least column 4, lines 52-67 discloses a chatting window comprises at least two panes that provide the user with the ability to engage in the shopping/ browsing experience while chatting with one or more additional shoppers to directly relate to and influence the user's shopping experience. Furthermore, Sundaresan in at least column 5, lines 1-27 discloses a server that can access stored information regarding previous visits and purchases made by the shopper including past co-browsing behavior.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sundaresan's method and system of shoppers chatting (making recommendation) with other users of similar characteristics and/or interest with a record of times other shopper shopper's have followed such a recommendation with the motivation of allowing advertisers to quickly identify certain group interest and/ or product.

Sundaresan does not specifically disclose, but Moeffett however discloses:

- *said group shopping comprising multiple individuals making at least one group purchase* (see at least the abstract and paragraphs 19 and 43) ;

- *a shopper paying for the shopper's individual share of the shopping group's purchase* (see at least the abstract and paragraphs 7 and 17);

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sunderson's method and system for co-browsing in electronic ecommerce with Moffett's system and method of customizable group purchase with the motivation of empowering a buyer's online shopping experience while maximizing the benefits of purchase as a group to the group members.

15. Claims 53-55, 78-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sunderson US Pat No: 7,219,072 B1 in view of Moffett, Jr. US Pub No: 2002/0103746 A1 in view of Eldering US Pat No: 6,298,348.

**Claims 53-55, 78-81:**

Sundareasan/ Moffett disclose the limitations as shown above.

Sundareasan does not specifically disclose, however, Eldering discloses:

- *wherein a shopper parameter specified by said merchant's rule to target information to a group or to individual shoppers for a particular promotion of goods or services* (see at least see at least column 2, lines 32-47 and column 6, lines 55-59 and 3A with the associated text).

It would have been obvious to one of ordinary skill in the art to combine Sundareasan's / Moffett system and method of co-browsing and group shopping in electronic commerce with Eldering's online consumer profiling system with the motivation of targeting consumers and presenting them with effective advertisement to help them making informed decisions about which products and/ or services to purchase.

16. Claims 58 and 59-61, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sunderson US Pat No: 7,219,072 B1 in view of Moffett, Jr. US Pub No: 2002/0103746 A1 in view of Eldering US Pat No: 6,298,348.

Sundareasan discloses:

- *a computerized shopping system* (see at least column 1, lines 46-67 and column3, lines 34-51);
- *collecting data regarding choices of individual shoppers when shopping individually;*
- *collecting group shopping data regarding the choices of individual shoppers when participating in group shopping, sending said targeted information to one or more targeted shoppers;*

See at least column 2, lines 1-27, column 3, lines 18-27;

- *determining an individual shopping behavior measure from the individual shopper data ;*
- *determining a group shopping behavior measure from the group shopping data;*

See at least column 2, lines (16-27 and 55-64) and column 5, lines 1-8;

- *determining targeted information on a basis of said shopper-group interaction measure;*

See at least column 2, lines 55-67, column 3, lines 18-30 and column 5, lines 18-51;

- *determining a shopper-group interaction measure from individual shopper data and group shopper data, said group shopper data comprising a record of previous interaction between individuals within a shopping group of individual performing said group interaction (see at least column 2, lines 1-27, column 5, lines 1-51);*

Sunderson does not specifically disclose:

- *wherein said shopper-group interaction measure is determined based on leadership index that is determined from records of shopper recommendations of said number of times other shoppers have followed such a recommendation;*

However, Sundaersan in at least column 3, lines 10-17 discloses a method that facilities in bringing the user's shopping experience closer to traditional shopping experience. The method provides user with ability to chat with other shoppers browsing similar items in a conventional e-store and the ability to exchange suggestions and recommendations regarding the available selection of products. Sunderson also in at least column 4, lines 52-67 discloses a chatting window comprises at least two panes that provide the user with the ability to engage in the shopping/ browsing experience while chatting with one or more additional shoppers to directly relate to and influence the user's shopping experience. Furthermore, Sunderson in at least column 5, lines 1-27 discloses a server that can access stored information regarding previous visits and purchases made by the shopper including past co-browsing behavior.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sunderson's method and system of shoppers chatting (making recommendation) with other users of similar characteristics and/or interest with a record of times other shopper shopper's have followed such a recommendation with the motivation of allowing advertisers to quickly identify certain group interest and/or product.

Sundaresan does not specifically disclose, but Moeffett however discloses:

- *said group shopping comprising multiple individuals making at least one group purchase (see at least the abstract and paragraphs 19 and 43) ;*

- *a shopper paying for the shopper's individual share of the shopping group's purchase* (see at least the abstract and paragraphs 7 and 17);

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sunderson's method and system for co-browsing in electronic ecommerce with Moffett's system and method of customizable group purchase with the motivation of empowering a buyer's online shopping experience while maximizing the benefits of purchase as a group to the group members.

The combination of Sunderson/Moffett does not specifically disclose, however Eldering discloses:

- *a group of youthfulness index based on subculture elements of purchase records* (see at least column 8, lines 1-5 and 50-65);

It would have been obvious to one of ordinary skill in the art to combine Sundaresan's/ Moffett system and method of co-browsing group shopping in electronic commerce with Eldering's online consumer profiling system with the motivation of determining the applicability of advertisements to consumers.

#### **Claims 59-61:**

Sundaresan/ Moffett /Eldering disclose the limitations as shown above.

Sundaresan does not specifically disclose, however, Eldering discloses:

- *wherein a shopper parameter specified by said merchant's rule to target information to a group or to individual shoppers for a particular promotion of goods or services* (see at least see at least column 2, lines 32-47 and column 6, lines 55-59 and 3A with the associated text).

It would have been obvious to one of ordinary skill in the art to combine Sundaresan's / Moffett system and method of co-browsing and group shopping in electronic commerce with Eldering's online consumer profiling system with the motivation of targeting consumers and presenting them with effective advertisement to help them making informed decisions about which products and/ or services to purchase.

#### **Claim 66:**

Sundaresan / Moffett/ Eldering disclose the limitations as shown above.

The combination of Sundaresan/ Moffett does not specifically disclose, however, Eldering discloses:

- *wherein individual shopping behavior measure comprises information on demographics, income, purchase history, and preferences* (see at least column 2, lines 32-47 and column 6, lines 55-59 and 3A with the associated text);

It would have been obvious to one of ordinary skill in the art to combine Sundareasan's Moffett system and method of co-browsing group shopping in electronic commerce with Eldering's online consumer profiling system with the motivation of determining the applicability of advertisements to consumers.

17. Claims 56, 57 depend on claims 53, claims 63,67 depend on claim 59 and claims 82 and 83 depend on claims 79. Claims 56-57,63, 66, 82 and 83 rejections are moot because they depends on claims that recites an optional language that is language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation (MPEP §2106 II C).

### ***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

19. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS from the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX Months from the mailing date of this final.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Affaf Ahmed whose telephone number is 571-270-1835. The examiner can normally be reached on Monday - Friday, 8:30 am-6:00 pm est, alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached at 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either

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Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AA

/Yehdega Retta/  
Primary Examiner, Art Unit 3622